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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,452	09/19/2000	Manfred Meintker	GR 98 P 3185	5814

7590 05/23/2003

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EXAMINER

KEITH, JACK W

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/665,452

Applicant(s)
Meintker

Examiner
Jack Keith

Art Unit
3641



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 9, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-19 is/are pending in the application.
- 4a) Of the above, claim(s) 8-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 3641

DETAILED ACTION

Request for Continued Examination

1. The request filed on 5/9/2003 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/665,452 is acceptable and a RCE has been established. An action on the RCE follows.

Response to Arguments

2. Applicant's arguments filed 5/9/2003 have been fully considered, but are not persuasive. The 102(b) rejection of Paper no. 13 is maintained, but has been expounded upon below.

Claim Rejections - 35 USC § 112

3. Claims 1 and 3-7 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As set forth in the claim language there is no indication of the actual flow required to (either the first or second fluid flows) operate the transport device. That is the fluid flow out of either one the vessels (first or second) into the connecting element could be zero. Accordingly, the claim language is not commensurate with the scope of applicant's invention.

Art Unit: 3641

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 3-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding the fluid flow from the first or second vessels flowing into the connecting element the claim language is vague and indefinite. That is there is no indication that fluid flow is required. Zero flow is supported by the language.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 3-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Desmarchais et al (3,294,453).

Desmarchais discloses applicant's inventive concept. A method for transporting a nuclear fuel element (22) from a reactor pit (24) to a storage pond (30). The method comprising: providing a fluid filled first vessel [reactor pit] and a fluid filled second vessel [storage

Art Unit: 3641

pond], the interiors of which are connected by connecting element (32). The connecting element [transfer pipe] having a first part [flange] facing the first vessel (68) and a second part [flange] facing the second vessel (not labeled) and a transport device (96) for moving the fuel element through the connecting element;

maintaining a fluid flow out of the first vessel into the first part of the connecting element;

maintaining a fluid flow out of the second vessel into the second part of the connecting element; and

transporting the fuel element through the connecting element with the fluid flow being maintained.

Referring to figure 2 and column 6, lines 21+ in operation valves (130) and (132) are opened. This allows water from the storage pond (second vessel) to flow (fluid 30) from valve (152) via static pressure head through conduits (134, 136) to valve (130) providing the flow intensity to move the transport device within the connecting element while the fluid within the connecting element having the same flow intensity is discharged to holding tank (138) via valve (132). Here the first fluid flow (fluid 24) is zero will the fuel element is transported through the connecting element.

Note that per figure 2 the static head of the reactor pit (first vessel) and storage pond (second vessel) are at essentially identical static head pressures before the first and second fluid

Art Unit: 3641

flows are generated. That is both are open to the same atmospheric pressure maintained within enclosure (14).

While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

In regard to claim 6 Desmarchais supplies a first fluid in the reactor pit having a first flow intensity and a second fluid in the storage pond having a second flow intensity. While in operation as set forth above the second fluid flow intensity would be static head pressure while the first fluid flow intensity would be zero. Accordingly, the discharge fluid from the connecting element would be the sum of the first and second fluid flow intensities.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Keith whose telephone number is (703) 306-5752. The examiner can normally be reached on Monday through Friday from 7:00 to 4:00.

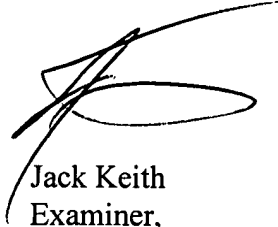
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703) 306-4198. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Application/Control Number: 09/665,452

Page 6

Art Unit: 3641

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Jack Keith
Examiner,
Art Unit 3641

jwk

May 21, 2003